

ORIGINAL
HOGAN & HARTSON
L.L.P.

EX PARTE OR LATE
ORIGINAL

LINDA L. OLIVER
PARTNER
DIRECT DIAL (202) 637-6527

July 30, 1999

COLUMBIA SQUARE
555 THIRTEENTH STREET, NW
WASHINGTON, DC 20004-1109
TEL (202) 637-5600
FAX (202) 637-5910

BY HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S. W.
Washington, D.C. 20554

RECEIVED
JUL 30 1999
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

**Re: Notice of Ex Parte Communication in Implementation of
the Local Competition Provisions in the
Telecommunications Act of 1996, CC Docket No. 96-98**

Dear Ms. Salas:

Today, on behalf of Qwest Communications Corporation ("Qwest"), the undersigned of Hogan & Hartson L.L.P.; Genevieve Morelli, Senior Vice President, Government Affairs and Senior Associate General Counsel, Qwest; Paul Gallant, Senior Policy Counsel, Government Affairs, Qwest; and Joseph Gillan of Gillan Associates met separately with Sarah Whitesell, Legal Advisor to Commissioner Gloria Tristani, and Dorothy Attwood, Legal Advisor to Chairman William Kennard. Yesterday the same Qwest representatives met separately with William Bailey, Legal Advisor to Commissioner Harold Furchtgott-Roth, and Linda Kinney, Legal Advisor to Commissioner Susan Ness.

The purpose of the meetings was to discuss the issues to be considered by the FCC in the April 16 Second Further Notice of Proposed Rulemaking in the referenced proceeding, on remand from the U.S. Supreme Court in AT&T v. Iowa Utilities Board, S.Ct. No. 97-826, et al. (Jan. 25, 1999). Discussed at the meeting were the points made in Qwest's comments and reply comments. These points included a discussion of the "wholesale market test" for network elements and the concept of interchangeability.

No. of Copies rec'd 0+2
List ABCDE

BRUSSELS BUDAPEST LONDON MOSCOW PARIS* PRAGUE WARSAW
BALTIMORE, MD BETHESDA, MD COLORADO SPRINGS, CO DENVER, CO LOS ANGELES, CA MCLEAN, VA

*Affiliated Office

Ms. Magalie R. Salas
July 30, 1999
Page 2

In the meetings, Qwest also emphasized that, in determining what network elements must be offered under the Section 251(d)(2) impairment test, the Commission must adhere to three central principles that lie at the heart of the Act and the FCC's 1996 local competition rules. These principles, which we refer to as the "trinity," are essential to the nature of network elements. They are:

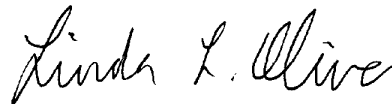
- The Act places no restrictions on the uses to which competitors may put network elements (including services that competitors choose to provide).
- The Act does not permit distinctions to be drawn on the basis of the type of customer to be served using network elements.
- The Act does not permit differential treatment of network elements when those elements are used in their combined form.

The attached handout, which was distributed at the meetings, sets forth the FCC rules and Supreme Court precedent embodying these principles.

I have hereby submitted two copies of this notice to the Secretary, as required by the Commission's rules. Please return a date-stamped copy of the enclosed (copy provided).

Please contact the undersigned if you have any questions.

Respectfully submitted,



Linda L. Oliver
Counsel for Qwest Communications
Corporation

Enclosures

cc: William Bailey
Linda Kinney
Sarah Whitesell
Dorothy Attwood

The Trinity of Principles Preventing Discrimination

§ 51.307(c) An incumbent LEC shall provide a requesting telecommunications carrier access to an unbundled network element, along with all of the unbundled network element's features, functions, and capabilities, in a manner that allows the requesting telecommunications carrier to provide any telecommunications service that can be offered by means of that network element.

§ 51.503(c) The rates that an incumbent LEC assesses for elements shall not vary on the basis of the class of customers served by the requesting carrier, or on the type of services that the requesting carrier purchasing such elements uses them to provide.

Supreme Court: [The Act] does not say, or even remotely imply, that elements *must* be provided only in this fashion [individually] and never in combined form.¹

¹ AT&T Corp. v. Iowa Util. Bd., 119 S. Ct. 721, 7376 (1999) ("Iowa Utilities Board").